FILED
041650 JUN 6 - 2005
OFFICE OF THE CLERK

No. 04-

IN THE

Supreme Court of the United States

STATE OF SOUTH CAROLINA; GRADY L. PATTERSON, JR., in his official capacity as Treasurer of the State of South Carolina; JIM HODGES, Governor of South Carolina; CHARLES M. CONDON, Attorney General; and ROBERT M. STEWART, individually,

Petitioners,

v.

HOLLIDAY AMUSEMENT COMPANY OF CHARLESTON, INCORPORATED and WARREN P. HOLLIDAY,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

When the South Carolina General Assembly outlawed video gambling machines in 1999, the video gaming industry immediately commenced legal actions in state court challenging the constitutionality of Act No. 125. The South Carolina Supreme Court upheld the ban on video gambling machines Act in both actions. *Joytime Distributors and Amusement Co. v. State*, 528 S.E.2d 647 (S.C. 1999), *cert. denied*, 529 U.S. 1087 (2000); *Westside Quik Shop, Inc. v. Stewart*, 534 S.E.2d 270 (S.C. 2000), *cert. denied*, 531 U.S. 1029 (2000) (holding that Act 125 does not constitute a taking under the Fifth Amendment to the U.S. Constitution or the S.C. Constitution).

After this Court refused to review the South Carolina Supreme Court's rulings in *Joytime* and *Westside,* the Respondents, an owner and operator of video gambling machines, commenced this action in the federal district court asserting a takings claim and asking the district court to review and reject the judgment of the South Carolina courts on identical issues.

The question presented for review is:

Whether the *Rooker-Feldman* Doctrine applies to this action brought by a Respondent who was not a named party in the *Westside Quik Shop* state-court action, but who was a member of a trade association that participated in the state court action and who is represented by the same attorneys that litigated the previous state court action?

LIST OF PARTIES

The Petitioners are the State of South Carolina, and various state officials, including the Governor, the Attorney General, the Treasurer, and the Chief of the South Carolina Law Enforcement Division.

The Respondents are Holliday Amusement Company, Inc., and Warren P. Holliday.

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The State of South Carolina respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the Court of Appeals is officially reported at 401 F.3d 534, and it also is set forth in the Appendix [1a-11a]. The order of the District Court is unreported and it is set forth in the Appendix [12a, 14a].

STATEMENT OF JURISDICTION

The opinion of the Court of Appeals was entered on March 8, 2005. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

FEDERAL STATUTORY PROVISION INVOLVED

Section 1257 of Title 28 of the United States Code provides for federal court review of state court decisions only by the Supreme Court:

> (1) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the

Constitution or treaties or statutes of, or any commission held or authority exercised under, the United States.

STATEMENT OF THE CASE

I. Introduction – The State of South Carolina Outlaws Video Gambling Machines

It has been said that video poker was one of the most hotly contested issue in South Carolina in recent years.[1] A 1986 legislative amendment and interpretative court rulings allowed the exponential growth of the video poker industry. As of March 1999, there were nearly 34,000 reported video poker machines in the state, and over $2.5 billion was deposited into these machines in 1998.

The State of South Carolina had created an interdependent state network to provide comprehensive regulation of video poker through legislative, administrative, and judicial mechanisms. However, the growth of the video poker industry spawned intense debates and court battles. Ultimately, the State outlawed video poker machines.

On July 1, 1999, the General Assembly of the State of South Carolina exercised its police power and banned gambling on video gaming machines. 1999 Act No. 125. The Act was signed by the Governor of the State of South Carolina on July 2, 1999, and became effective, July 1, 2000. The Act, codified at S.C. Code Ann. § 12-21-2710 and 12-21-2712, make video gambling machines illegal contraband and subject to seizure.

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[1] *Johnson v. Collins Entertainment Co.*, 199 F.3d 710, 715 (4th Cir. 1999).

Act 125 is composed of several parts. Part I prohibits cash payouts on video gaming devices effective July 1, 2000. Part II provided for a public referendum to be held "to ascertain whether or not video game machine payouts will continue to be allowed in this State." Act 125, Part II, § 9(1), 1999 S.C. Acts. The specific question voters were to be asked to consider was: "Shall cash payouts for credits earned on video game machines continue to be allowed after June 30, 2000?" Act 125, Part II, § 9(2), 1999 S.C.Acts.

II. Challenges to Constitutionality of Act 125 in State Court

The Act was immediately subjected to two significant constitutional challenges in the form of lawsuits brought by owners and operators of the affected video gambling machines. *Joytime Distributors and Amusement Co. v. State*, 528 S.E.2d 647 (S.C. 1999), *cert. denied*, 529 U.S. 1087 (2000); *Westside Quik Shop, Inc. v. Stewart*, 534 S.E.2d 270 (S.C. 2000), *cert. denied*, 531 U.S. 1029 (2000).

In *Joytime Distributors,* the South Carolina Supreme Court held that the legislature unconstitutionally delegated its power to enact laws by enacting Part II of Act 125. S.C. Const. Art. III, § 1. However, the State Court also ruled that Part I of Act 125, as a free standing enactment of the General Assembly, is severable from the unconstitutional portions of the Act, and is upheld. The *Joytime* plaintiff petitioned this Court for a writ of certiorari, which was denied.

The highly-publicized case of *Westside Quik Shop, Inc.* was originally filed in state Circuit Court, but the state governmental defendants petitioned the South Carolina

Supreme Court to remove the case to its original jurisdiction based on the importance of the case and its significant public policy implications. The South Carolina Supreme Court granted the defendants' petition to hear the case in its original jurisdiction and held that Act 125 does not constitute a taking under the Fifth Amendment to the U.S. Constitution, the S.C. Constitution, or under 42 U.S.C. § 1983. In its *Westside* decision, the South Carolina Supreme Court held that video gambling machine owners and operators are not entitled to compensation under either the U.S. Constitution or the South Carolina Constitution, because their machines were lawfully subject to forfeiture as contraband under South Carolina law, which "comports with due process even when applied to machines that were previously legally possessed." 534 S.E.2d at 273. The South Carolina Supreme Court further held that the forfeiture of video gambling machines substantially advances the legitimate government interests of prohibiting illicit gambling and that the highly regulated nature of the video gambling industry renders the machines' owners' investment-backed expectations unreasonable so that no taking is found. *Id.* at 275. The *Westside* plaintiffs also filed a petition for writ of certiorari which this Court denied. 531 U.S. 1029.

Holliday was not a party in the *Westside Quik Shop, Inc.* litigation, but it was a member of the South Carolina Coin Operators Association which filed an amicus brief in the South Carolina court. Holliday is also represented by two of the same attorneys who represented the *Westside* plaintiffs.

III. The Plaintiff's Attempt to Overrule and Reverse the State Court's Decisions in the Federal District Court

Holliday Amusement Company owned and operated video gambling machine that became illegal on January 1, 2000, when Act 125 became effective. After the South Carolina Supreme Court rendered its decisions in *Joytime Distributors* and *Westside Quik-Shop,* and after this Court refused to hear the gambling industry's petition for review, Holliday Amusement and its sole shareholder, Warren P. Holliday, (together, "Holliday"), instituted this action in federal district court, raising the very same constitutional challenges raised in the *Westside* case, and seeking a declaration of inverse condemnation and compensation under the Fifth and Fourteenth Amendments to the U.S. Constitution.

Appellants filed this lawsuit in the U.S. District Court at Charleston, South Carolina on January 2, 2001, alleging that South Carolina's enactment and enforcement of Act No. 125, destroyed Holliday's business, resulting in an unconstitutional taking of his property in violation of the Constitution and 42 U.S.C. § 1983. Holliday sought declaratory and injunctive relief, or, in the alternative, damages arising out the unconstitutional taking.

On March 1, 2001, the State filed a motion to dismiss for lack of jurisdiction pursuant to the *Rooker-Feldman* Doctrine. *District of Columbia Ct. App. v. Feldman,* 460 U.S. 462 (1983); *Rooker v. Fid. Trust Co.,* 263 U.S. 413 (1923).

On December 20, 2001, the District Court below entered a minute order granting the State's motion to dismiss. [App. 12a-13a.] The District Court explained its reasoning from the bench:

> THE COURT: All right. It seems to me that the issues we have before us are very simple. It seems to me very obvious that the *Rooker-Feldman* doctrine applies.
>
> Under *Rooker-Feldman*, as stated by the Fourth Circuit, in *Allstate Insurance Company v. West Virginia State Bar*, 233 F.3d. 813, . . . federal courts are generally barred from not only considering issues actually presented to and decided by state court, but also hearing constitutional claims that are inextricably intertwined with questions ruled upon by state court, as when success on the federal claim depends upon a determination that the state court wrongly decided the issues before it.
>
> And that's precisely what we've got here. We may have some minor issues in this case that are different from what exists in the *West Side Quik Shop, Inc.* case, which of course is reported at [534 S.E.2d 270]. But the underlying points that are raised in that case are *identical to the issues that will be presented in the instant case.*
>
> And the only way that plaintiff could recover in this case is for the Court to conclude that the major issues decided in *West Side Quik Shop, Inc.* were wrong. And I believe that under the circumstances

> in this case, that case is controlling. That case calls into play the *Rooker-Feldman* doctrine and causes this court to lack . . . subject matter jurisdiction.

[App. 14a-15a (emphasis added).]

Following the ruling of the District Court below on the State's motion to dismiss, the Plaintiffs appealed to the Court of Appeals for the Fourth Circuit pursuant to 28 U.S.C. § 1291. The Court of Appeals held that the *Rooker-Feldman* abstention doctrine does not bar Holliday's federal court action because it was not a named party to the earlier state-court challenge to Act No. 125 in *Westside Quik-Shop,* citing *Johnson v. De Grandy,* 512 U.S. 997 (1994). 401 F.3d 534; [App. 1a-11a.]

REASONS FOR GRANTING THE PETITION

The present federal court action raises claims identical to those raised before the South Carolina Supreme Court by video gambling machine owners and lessees in the *Westside* case. The *Westside* plaintiffs challenged Act 125 as an unconstitutional taking of property for public use without just compensation under the Fifth and Fourteenth Amendments to the U.S. Constitution, and also under 42 U.S.C. § 1983. *Id.* In its *Westside* decision, the South Carolina Supreme Court addressed and rejected all of those constitutional challenges.

This case concerns an important question of the scope of federal court jurisdiction to review a decision of a state's highest court. Only this Court has been granted the power and jurisdiction to review a decision by a state court. 28 U.S.C. § 1257. Neither the district courts nor the circuit

courts of appeals have jurisdiction over "cases brought by state-court losers complaining of injuries caused by state-court judgment rendered before the district court proceeding commenced and inviting district court review and rejection of those judgments." *Exxon v. Saudi Basic Indus. Corp.*, __ U.S. __, 124 S. Ct. 1517, 1522 (2005).

The State of South Carolina maintains that the District Court correctly held that it has no jurisdiction in this action brought by Holliday seeking to overturn the South Carolina Supreme Court's decision in *Westside Quik Shop*. The State respectfully submits that the Court of Appeals' ruling on the application of the *Rooker-Feldman* Doctrine is not compelled by this Court's decision in *Johnson v. De Grandy,* and it does not comport with this Court's most recent decision in *Exxon v. Saudi Basic Indus. Corp.*, *supra*. In addition, the Court of Appeals' ruling on this issue is in conflict with the decisions in other circuits.

Accordingly, there are serious, compelling reasons for this Court to grant the petition to clarify its precedent and resolve the conflict between the circuits regarding the scope of federal court jurisdiction to review decisions of state courts.

I. The *Rooker-Feldman* Doctrine – The Limits of Federal Court Review of State Court Judgments

The fundamental premise of the *Rooker-Feldman* Doctrine is that the only means by which a party may seek federal review of a state court judgment is by petitioning the Supreme Court for certiorari pursuant to 28 U.S.C. § 1257(a). The federal district court, and the circuit court of appeals, have no jurisdiction to consider issues decided by a state

court or Constitutional claims that are "inextricably intertwined" with questions ruled upon by a state court." *Feldman,* 460 U.S. at 482, n.16; *Player v. Moore,* 129 F.3d 728, 731 (4th Cir. 1997). A federal claim is considered to be "inextricably intertwined" with a state court judgment when "the federal claim succeeds only to the extent that the state court wrongly decided the issues before it." *Pennzoil Co. v. Texaco, Inc.,* 481 U.S. 1, 25, (1987) (Marshall, J., concurring); *Allstate Ins. Co. v. W. Va. State Bar,* 233 F.3d 813, 819 (4th Cir. 2000); *Silverman v. Silverman,* 338 F.3d 886, 893 (8th Cir. 2003) (en banc) ("Where the district court must hold that the state court was wrong in order to find in favor of the plaintiff, the issues . . . are inextricably intertwined.").

The doctrine takes it name from this Court's decisions in *Rooker v. Fidelity Trust Co.,* 263 U.S. 413 (1923), and *District of Columbia Court of Appeals v. Feldman,* 460 U.S. 462 (1983). In *Rooker*, the parties defeated in a state court action sought relief in a federal district court, alleging that the adverse state-court judgment was rendered in contravention of the Constitution and asking the federal court to declare it "null and void." The Court held that federal district courts lacked the appellate authority, because Congress had empowered only the Supreme Court with jurisdiction to exercise appellate authority "to reverse or modify" a state-court judgment. 263 U.S. at 416.

The Court revisited the issue of federal appellate jurisdiction sixty years later in *District of Columbia Court of Appeals v. Feldman,* when two plaintiffs petitioned the District of Columbia Court of Appeals to waive a court Rule that required D.C. bar applicants to have graduated from a law school approved by the American Bar Association. After

the D.C. court denied their waiver requests, Hickey and Feldman filed suits in the United States District Court for the District of Columbia. Citing *Rooker,* this Court observed that the District Court lacked authority to review a final judicial determination of the D.C. high court and that only the Supreme Court could review such determinations. 460 U.S. at 476.

Most recently, the Supreme Court issued a unanimous opinion in *Exxon v. Sauid Basic Indus. Corp.*, __ U.S. __, 124 S. Ct. 1517 (2005), to resolve conflict among the Courts of Appeals over the scope of the *Rooker-Feldman* Doctrine. The Court reversed the Third Circuit's decision which applied *Rooker-Feldman* to dismiss a parallel declaratory judgment action that was brought in federal court while a state court action was pending. ExxonMobil was not asking the district court to undo the state court judgment *in its favor;* rather, even after winning a $416 million jury verdict in the state court action, Exxon had continued to pursue the federal declaratory judgment action as "insurance" in case it lost the state court appeal. The Supreme Court held that *Rooker-Feldman* only applies to "cases brought by state-court losers complaining of injuries caused by state-court judgment rendered before the district court proceeding commenced and inviting district court review and rejection of those judgments." 125 Sup. Ct. at 1522

In this case, Holliday is complaining of injuries caused by the South Carolina Supreme Court's decision in *Westside Quik Shop,* which was rendered before the district court proceeding was commenced, and invites district court review and rejection of that decision. Under the circumstances and given the procedural posture of this case, the District Court

correctly held that it lacked jurisdiction to overturn the *Westside Quik Shop* decision and properly dismissed the action.

II. Holliday seeks to overturn the South Carolina Supreme Court's decision in *Westside Quik Shop* in this federal court action.

The essential question in the case at bar, whether video gambling machine owners like Holliday are entitled to compensation for their video gambling machines having become illegal and contraband *per se* subsequent to the enactment of Act 125, has been specifically addressed and ruled upon by the South Carolina Supreme Court in *Westside*. The State Court unequivocally stated the *Westside* plaintiffs were "entitled to no compensation because their machines are lawfully subject to forfeiture as contraband" and that "the forfeiture of plaintiffs' video gaming machines, or their leasehold interest in these machines, is not a compensable taking under either our Federal or State Constitutions." 534 S.E.2d at 272, 273-74.

Holliday has expressly alleged that it has been deprived of its property without just compensation by virtue of the South Carolina Supreme Court's decision in *Westside Quik Shop*. [Complaint ¶22, 36.] Nonetheless, Holliday argued that the *Rooker-Feldman* doctrine is inapplicable because this case is not an appeal of the decision in *Westside Quik Shop, Inc. v. Stewart*. It is indisputable, however, that the District Court below could grant relief to Holliday *only* if it effectively "reverses" the *Westside* decision that the South Carolina Supreme Court has rendered.

Holliday acknowledged at the motions hearing before the District Court that the issues involved (other than possibly damages) are identical to those in the *Westside* litigation. [12/20/01 Tr. 6, lines 2-6.] And, the District Court aptly recognized that the only way that Holliday can recover in this case is for the federal District Court to overturn the South Carolina Supreme Court's decision, which it has no jurisdiction to do.

III. Holliday is a "state-court loser" to whom the *Rooker-Feldman* Doctrine should be applied.

Notwithstanding that the issues presented by Holliday are not just "inextricably intertwined", but in fact, identical with those ruled upon by the South Carolina Supreme Court in *Westside Quik Shop,* the Court of Appeals refused to apply the *Rooker-Feldman* doctrine because Holliday was not a named party in the *Westside Quik Shop* litigation. In so holding, the Court of Appeals relies upon this Court's decision in *Johnson v. De Grandy,* 512 U.S. 997 (1994).

In *Johnson,* the Supreme Court held that *Rooker-Feldman* bars a losing party in state court "from seeking what in substance would be appellate review of the state judgment in a United States district court, based on the losing party's claim that the state judgment itself violates the loser's federal rights," but the doctrine has no application to a federal suit brought by a nonparty to the state suit. There, separate groups of Hispanic and black voters challenged Florida's reapportionment plan as a violation of § 2 of the federal Voting Rights Act of 1965. In a mandatory review action brought by the Florida Attorney General, the Supreme Court of Florida, upheld the plan as valid under federal and state law. The Florida court, however, also expressly

acknowledged that time restraints prevented a full review and authorized any "protestor" to bring a Voting Rights Act challenge in state court. However, the plaintiff/voters opted to bring a Section 2 claim in federal district court which was consolidated with a similar Section 2 action brought by the United States. On appeal from the district court's judgment for the plaintiffs, the State argued that the claims of the United States should have been dismissed under the *Rooker-Feldman* rule because they had already been litigated before the Supreme Court of Florida. However, the Supreme Court rejected that argument, explaining that the *Rooker-Feldman* Doctrine did not apply because the United States was not a party in the state court.

In relying upon *Johnson*, the Court of Appeals has misapprehended or overlooked the nature and posture of the *Westside* litigation. *Westside* was widely regarded by all observers as an "industry" lawsuit, a fact to which the record (J.A. at 756, 758, and 762), and the numerous *amicus* briefs filed in the U.S. Supreme Court in support of the *Westside* petition for writ of certiorari, abundantly attest. Westside Quik Shop, Inc. and the other named plaintiffs in the *Westside* case were but nominal plaintiffs, and Holliday could have served in that capacity equally as well, as his claims are indistinguishable from those of the named *Westside* plaintiffs.

Moreover, Holliday participated in *Westside* as *amicus curiae* through membership in the S.C. Coin Operators Association. *See Johnson v. Collins Entertainment Co.*, C/A No. 3:97-2136-17 (D.S.C.), Holliday's Amusement Company of Charleston's Supplemental Answers to First Set of Interrogatories and Request for Production of Documents, p. 5, para. 40, Oct. 23, 1998 (stating that "Defendant is a member of the South Carolina Coin Operators Association."). [J.A. 765, 770.]

Another fact of "singular significance" is that Holliday is represented by two of the same attorneys that represented the in this case have the same attorney that represented the Plaintiffs in the *Westside Quik Shop* action. *Ruiz v. Commissioner of Dep't of Transp. of the City of New York,* 858 F.2d 898, 903 (2d Cir. 1988).

To the extent a federal district court's ruling would overrule or reverse the decision of a state high court, *Rooker-Feldman* is implicated irrespective of the identity of the parties. The *Rooker-Feldman* Doctrine evolved to maintain the hierarchy of review established by Congress through 28 U.S.C. § 1257, and prevent the lower federal courts from reviewing state court judgments. This is an important and essential purpose that simply does not depend on the strict identity of the parties as recognized by various federal courts.

In *Republic of Paraguay v. Allen*, 949 F. Supp. 1269, 1273 (E.D. Va. 1996), *aff'd on other grounds*, 134 F.3d 622, 628 (4th Cir. 1997), the plaintiffs asked the federal district court through a § 1983 action to vacate a Paraguayan citizen's state court criminal conviction, arguing that the conviction violated plaintiffs' rights under various international treaties. Although the Paraguayan citizen was not a party to the federal suit, and plaintiffs argued that their federal case did not represent an appeal of the state court decision, the district court nonetheless found that the state court judgment was "inextricably intertwined" with the federal claims and was barred by *Rooker–Feldman*: "Simply stated, this Court has no authority to disturb a state court ruling regardless of the procedural posture of the litigants." *Id.* at 1273.

See also Guess v. Bd. of Medical Examiners, 967 F.2d 998, 1005 (4thCir. 1992) (federal action brought by patients

of doctor whose license had been revoked in state court proceeding was barred by *Rooker-Feldman* because patients were "litigating agents" of doctor, so that patients were effectively seeking to relitigate in federal court the claims of doctor that were previously decided in the state court.); *T.W. & M.W. v. Brophy*, 124 F.3d 893, 898 (7th Cir. 1997) (even though plaintiff was not a party to the state court proceedings, *Rooker-Feldman* doctrine barred federal suit by child abuse prevention advocate seeking damages for alleged Constitutional violations when the federal suit was effectively trying to challenge state court decisions awarding custody of children.); *Williams v. Adkinson*, 792 F.Supp. 755, 765-66 (M.D. Ala. 1992), *aff'd*, 987 F.2d 774 (11th Cir. 1993) (court applied *Rooker-Feldman* even though the federal plaintiff was not technically a party in the underlying state case because his position was adequately presented by other parties on this appeal).

"Federal court jurisdiction is not determined by whether the parties are identical, but by whether the claims are sufficiently separate from those of the state court action." *Gisslen v. City of Crystal*, 345 F.3d 624, 629 (8th Cir. 2003); *Lemonds v. St. Louis County,* 222 F.3d 488, 493 (8th Cir. 2000). If the federal claims "so closely implicate the decision of the state court," the federal suit is barred even if the plaintiff is not directly asking the district court to overturn the state court judgment. *Id.*

Ultimately, however, *Rooker-Feldman* analysis is not, and cannot be, reduced to a mere rote inquiry into the identity of the parties to a state court action. A proper *Rooker-Feldman* analysis must include some inquiry into the practical and legal implications that a federal district court's ruling may have on the related state court judgment.

Authority for reviewing the judgments of state high courts is vested solely with the Supreme Court. If a federal district court's ruling will undermine or reverse the decision of a state high court, *Rooker-Feldman* is implicated, irrespective of the identity of the parties. The fact that Holliday was not a named plaintiff in the *Westside* suit does not preclude the application of *Rooker-Feldman*. As one commentator has stated:

> [D]espite some circuits' apparent refusal to apply *Rooker - Feldman* to any plaintiff not a party to the state proceeding, the better rule is that the nature of the federal suit and not the party seeking it should determine whether *Rooker - Feldman* bars the suit. A doctrine that is designed to protect state court judgments from federal review should not care about the identity of parties. A court that strays from this common sense conclusion will end up hopelessly confused – and will often find some other reason to avoid jurisdiction.

Suzanna Sherry, *Judicial Federalism in the Trenches: the Rooker-Feldman Doctrine in Action*, 74 Notre Dame L. Rev. 1085 (1999).

Were the District Court below to entertain Holliday's lawsuit, and overrule the decisions reached by the South Carolina Supreme Court in *Westside*, the State, and the federal district courts in South Carolina, would be subjected to the onerous burden of relitigating issues of paramount importance to the public that have already been resolved by the State's High Court with finality in the *Westside* case.

As noted above, there were 34,000 video poker machines in the State of South Carolina that became illegal contraband when Act No. 125 been effective, which under the Fourth Circuit's ruling, could conceptually create literally thousands of takings cases flooding the federal courts. Such a result would be profoundly problematic, and illustrates exactly why the *Rooker-Feldman* Doctrine has evolved and why it deprives the District Court of subject matter jurisdiction here. Indeed, *Rooker-Feldman* is designed to prevent just this kind of "end-run" around state court judgments, and to prevent the onerous relitigation in federal court of issues finally and definitively ruled upon in state court. The video poker industry in South Carolina was so intertwined as a result of the plethora of video poker machines throughout the State that any argument that a ban on those machines constituted an unconstitutional taking has now been fully and finally litigated for that entire industry, including Holliday.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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